

**MINUTES OF SPECIAL MEETING
ILLINOIS GAMING BOARD
November 17, 2005
CHICAGO, ILLINOIS**

NOTE: ITEMS IN **BOLDFACE PRINT** REFLECT OFFICIAL BOARD ACTIONS

The Thursday, November 17, 2005 a Special Meeting of the Illinois Gaming Board ("Board") was held in the conference room of the Gaming Board Offices on the 3rd floor at 160 N. LaSalle for closed session.

The following Board Members were present: Chairman Aaron Jaffe, Members Charles Gardner, Joseph Moore, Eugene Winkler, and James Sullivan.

The meeting convened at 12:00 P.M. Pursuant to Section 2(c), paragraphs (1), (11), and (14) of the Open Meetings Act and Section 6(d) of the Riverboat Gambling Act, Member Charlie Gardner moved that **the Board retire to Closed Session to discuss the items listed under Closed Session on today's agenda and relating to the following subject matters:**

- 1. Investigations concerning applicants and licensees;**
- 2. Pending litigation and matters involving probable litigation; and**
- 3. Personnel matters.**

Member Eugene Winkler seconded the motion. The Board approved the motion unanimously by voice vote.

The Board convened its Open session at 2:10 P.M.

Chairman's Report

Chairman Jaffe announced that the Board will not be voting on the Emerald Revocation and the public will be notified when the Board is ready to make its decision. Chairman Jaffe stated that the Board would be reviewing the record and exhibits.

Administrator's Report

Administrator Ostrowski stated that there was a short agenda with a couple of hold over occupational licenses as well as a motion. Administrator Ostrowski stated that the next meeting is scheduled for December 8, 2005.

Owner Licensee Items

PROPOSED COMPLAINTS AND DISCIPLINARY ACTIONS

- Frank Lestina, Security Guard – Harrah’s Joliet Casino

Based on the staff’s investigation and recommendation, Member Winkler moved **that the Board issue a Disciplinary Complaint against Frank Lestina a Level 2 Occupational Licensee, for failing to comply with the Illinois Riverboat Gambling Act and the Board’s Adopted Rules in relation to his theft from the token count at Harrah’s Joliet Casino.**

Further, Member Winkler moved **that the Board revoke Mr. Lestina’s Occupational License. Said action to take effect twenty-one (21) days from the date of service of this complaint unless the licensee files an Answer within that time period.** Member Gardner seconded the motion. The Board approved the motion unanimously by voice vote.

- Kaci Eberhardt, Food and Beverage Employee – Alton Belle Casino

Based on the staff’s investigation and recommendation, Member Sullivan moved **that the Board issue a Disciplinary Complaint against Kaci Eberhardt, a Level 3 Occupational Licensee, for failing to comply with the Illinois Riverboat Gambling Act and the Board’s Adopted Rules in relation to her theft from her employer, the Alton Belle Casino and her subsequent conviction for Theft.**

Further, Member Sullivan moved **that the Board revoke Ms. Eberhardt’s Occupational License. Said action to take effect twenty-one (21) days from the date of service of this complaint unless the licensee files an Answer within that time period.**

Member Winkler seconded the motion. The Board approved the motion unanimously by voice vote.

ADMINISTRATIVE HEARINGS/ALJ REPORTS

Chairman Jaffe stated that Emerald had previously filed a motion to disqualify the Administrative Law Judge in the administrative hearing. Chairman Jaffe stated that this matter was reviewed by the Board at its meeting of October 14, 2005 at that time the Board denied Emerald’s Motion to Disqualify the ALJ and issued an order; the order failed to state the Board’s reasons for denial of the motion, and the Board is therefore going to modify its order to reflect those reasons as follows:

The Illinois Gaming Board, pursuant to Board Rule 3000.1126(b), hereby modifies its October 14, 2005 order denying Emerald Casino, Inc.'s Motion to Disqualify Administrative Law Judge, Abner J. Mikva, as follows:

The Board reviewed the motion, the exhibits attached thereto as well as pages 6494 through 6497 of the Report of Proceedings. Emerald Casino Inc.'s Motion to Disqualify the ALJ is denied based on the following:

- 1. Emerald has relied on various rulings, purported comments and questions by ALJ Mikva during the reported proceedings. The Board finds that similar actions are commonly part of a contested adjudicatory hearing, and that taken as a whole ALJ Mikva's actions do not constitute sufficient grounds to demonstrate that he is biased or cannot be a neutral decision-maker.**
- 2. In support of the Motion To Disqualify, Emerald also attached as an Exhibit the Affidavit of its counsel, Robert A. Clifford, Kevin P. Durkin and John T. Karnezis. The Affidavit attributed to ALJ Mikva an alleged statement in chambers as grounds for his disqualification. During a subsequent hearing, counsel for the Board, Paul Gaynor, contradicted the version of events and the subject matter contained in the Affidavit. Mr. Gaynor stated that ALJ Mikva did not make the statement attributed to him by the Affiants. Mr. Gaynor added that, in the context of an off-the-record discussion in chambers initiated by Mr. Clifford about a possible settlement, he (Gaynor) made a somewhat similar statement. Additionally, ALJ Mikva stated that he did not remember making any statements that were attributed to him by the Affiants. The Board concludes that this conflicting evidence is insufficient to establish that ALJ Mikva made any disqualifying statements or engaged in any disqualifying actions.**

Chairman Jaffe stated that is the way the Order will be modified. Chairman Jaffe stated that he will ask the Board for its adoption. Member Gardner seconded the motion. The Board approved the motion unanimously by voice vote.

Mike Krzak stated that he is one of the attorneys for Emerald Casino. He indicated that he would inquire of the Board where the Board has the authority to modify its order, or where the Board has its authority under either the Rules or the Administrative Procedures Act to reconsider the order that was entered.

Chairman Jaffe stated that the Board has the authority and the role was taken and the amendment to the motion passed unanimously by voice vote.

Member Gardner moved that the Board adjourn, and Member Winkler seconded the motion.

The Board adjourned at 3:00 P.M.

Respectfully submitted,
Mary Boruta

Secretary to the Administrator